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In re Application of :
Prichard, et al. : LETTER REGARDING PTA
Application No. 10/685,994 :
Filed: October 15, 2003 :
Atty. Dkt. No.: 13039:239 :
(CRAN01-00239) :

This letter is in response to the "GOOD FAITH AND CANDOR LETTER REGARDING PATENT TERM ADJUSTMENT," filed March 18, 2009. The Office thanks applicants for their good faith and candor in bringing this to our attention.

The Determination of Patent Term Adjustment mailed December 18, 2008 indicated that the above-identified application was entitled to a patent term adjustment ("PTA") of 194 days. Applicants indicate that the correct adjustment is 130 days and direct the Office's attention to the amendment filed August 27, 2008.

The correct Patent Term Adjustment ("PTA") at the time of the allowance is 165 days.

As reflected in the Determination of Patent Term Adjustment mailed December 18, 2008, an adjustment of 309 days can be attributed to the Office in accordance with 37 CFR 1.702(a)(1). As further reflected by the Determination of Patent Term Adjustment, an adjustment of two days can be attributed to the Office in accordance with 37 CFR 1.702(a)(2).

The Determination of Patent Term Adjustment properly reflects a reduction of 144 days in accordance with 37 CFR 1.704.

The Office neglected to assess a reduction in connection with the Notice of Appeal filed August 15, 2008. A final Office action was mailed May 13, 2008. An amendment was filed July 21, 2008. This amendment failed to place the application in condition for allowance, as indicated by the Advisory Action mailed August 20, 2008. The time period for applicant to submit a proper reply to the final Office action continued to toll until the submission of the Notice of Appeal on August 15, 2008.

In accordance with 37 CFR 1.704(b), the adjustment is properly reduced two days, the reduction having commenced August 14, 2008, the day after the date that is three months after the date that the final Office action was mailed, and ended August 15, 2008, the date that a proper reply (Notice of Appeal) was filed.

The Determination of Patent Term Adjustment mailed December 18, 2008 errantly reflects an adjustment of 27 days in connection with the mailing of the Notice of Allowance on December 18, 2008. The adjustment is in error because the reply to the final Office action filed July 21, 2008 failed to place the application in condition for allowance, as indicated by the Advisory Action mailed August 20, 2008. Thus, adjustment pursuant to 37 CFR 1.702(a)(2) and 1.703(a)(3) is not warranted.

Accordingly, at the time of allowance, the application is entitled to an adjustment of 165 days (adjustments totalling 311 days less reductions totalling 146 days).

As applicants are advising us of a potential error in providing too much patent term adjustment in this application, no fee is due in connection with this matter.

The patent term adjustment indicated in the patent will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

This application is being forward to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3205.



Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure: Copy of Adjustment PAIR Calculation

PALMINTRANET

Day : Thursday
Date: 8/6/2009
Time: 09:55:47

PTA Calculations for Application: 10/685994

Application Filing Date:	10/15/2003	PTO Delay (PTO):	338
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	144
Post-Issue Petitions:	0	Total PTA (days):	165
PTO Delay Adjustment:	-29		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
89	07/16/2009	RECORD A PETITION DECISION OF GRANTED FOR PATENT TERM ADJUSTMENT AFTER ALLOWANCE			
88	07/16/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		27	
87	07/16/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		2	
79	12/18/2008	MAIL NOTICE OF ALLOWANCE	27		62
78	12/17/2008	ISSUE REVISION COMPLETED			
77	10/28/2008	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
76	10/28/2008	DOCUMENT VERIFICATION			
75	10/28/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
74	10/28/2008	CASE DOCKETED TO EXAMINER IN GAU			
73	10/27/2008	NOTICE OF ALLOWABILITY			
68	09/04/2008	DATE FORWARDED TO EXAMINER			
67	08/27/2008	AMENDMENT/ARGUMENT AFTER NOTICE OF APPEAL			
66	08/15/2008	NOTICE OF APPEAL FILED			
65	08/20/2008	MAIL ADVISORY ACTION (PTOL - 303)			
64	08/18/2008	ADVISORY ACTION (PTOL-303)			
63	07/29/2008	DATE FORWARDED TO EXAMINER			
62	07/21/2008	AMENDMENT AFTER FINAL REJECTION			
61	05/13/2008	MAIL FINAL REJECTION (PTOL - 326)	2		57

60	05/12/2008	FINAL REJECTION				
59	01/11/2008	MISCELLANEOUS INCOMING LETTER				
58	02/15/2008	DATE FORWARDED TO EXAMINER				
57	01/11/2008	RESPONSE AFTER NON-FINAL ACTION				
56	10/15/2007	CASE DOCKETED TO EXAMINER IN GAU			6	55
55	10/05/2007	MAIL NON-FINAL REJECTION				
54	10/01/2007	NON-FINAL REJECTION				
53	08/28/2007	DATE FORWARDED TO EXAMINER				
52	07/16/2007	RCE- AF PROCESSED				
51	08/28/2007	DATE FORWARDED TO EXAMINER				
50	08/20/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			5	43
49	08/28/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)				
48	08/20/2007	WORKFLOW - REQUEST FOR RCE - BEGIN				
47	08/06/2007	MAIL ADVISORY ACTION (PTOL - 303)				
46	08/03/2007	ADVISORY ACTION (PTOL-303)				
45	07/19/2007	DATE FORWARDED TO EXAMINER				
44	07/16/2007	AMENDMENT AFTER FINAL REJECTION				
43	05/15/2007	MAIL FINAL REJECTION (PTOL - 326)				
42	05/14/2007	FINAL REJECTION				
41	12/04/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED				
40	02/28/2007	DATE FORWARDED TO EXAMINER				
39	02/08/2007	RESPONSE AFTER NON-FINAL ACTION			34	35
38	02/08/2007	REQUEST FOR EXTENSION OF TIME - GRANTED				
37	12/04/2006	REFERENCE CAPTURE ON IDS				
36.7	12/04/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED				
36	12/04/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED				
35	10/05/2006	MAIL NON-FINAL REJECTION				
34	10/02/2006	NON-FINAL REJECTION				
33	07/31/2006	DATE FORWARDED TO EXAMINER				
32	07/27/2006	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE				

31	07/31/2006	DATE FORWARDED TO EXAMINER				
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29	07/31/2006	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)				
28	07/27/2006	REQUEST FOR EXTENSION OF TIME - GRANTED				
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26	03/24/2006	MAIL FINAL REJECTION (PTOL - 326)				
25	03/20/2006	FINAL REJECTION				
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23	01/23/2006	RESPONSE AFTER NON-FINAL ACTION		3		22
22	10/20/2005	MAIL NON-FINAL REJECTION	309			-1
21	10/17/2005	NON-FINAL REJECTION				
20	08/25/2005	CASE DOCKETED TO EXAMINER IN GAU				
19	08/25/2005	CASE DOCKETED TO EXAMINER IN GAU				
18	06/09/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE				
17	06/09/2005	CASE DOCKETED TO EXAMINER IN GAU				
16	06/18/2004	PRELIMINARY AMENDMENT				
15	07/02/2004	APPLICATION RETURN FROM OIPE				
14	07/02/2004	APPLICATION RETURN TO OIPE				
13	07/02/2004	APPLICATION DISPATCHED FROM OIPE				
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11	06/18/2004	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM		63		7
10	06/18/2004	SMALL ENTITY STATEMENT (37 CFR 1.27)				
9	06/18/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC				
8	10/15/2003	CLAIM PRELIMINARY AMENDMENT				
7	01/16/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED				
4	01/09/2004	CLEARED BY OIPE CSR				
3	01/09/2004	CASE CLASSIFIED BY OIPE				
2	12/07/2003	IFW SCAN & PACR AUTO SECURITY REVIEW				
1	10/15/2003	INITIAL EXAM TEAM NN				